IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE APPLICATION OF: DIANE M. ARTMAN, ET AL.

DOCKET NO.: 3226-01 CUSTOMER NUMBER: 26645

SERIAL NO.: 10/554,481 EXAMINER: TAIWO OLADAPO

FILED: OCTOBER 24, 2005 GROUP ART UNIT: 1797

TITLE: DIESEL LUBRICANT LOW IN SULFUR AND PHOSPHORUS

Hon. Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

DECLARATION UNDER 37 C.F.R. §1.131

We, DIANE M. ARTMAN, WILLIAM D. ABRAHAM, VIRGINIA A. CARRICK, AND JONATHAN S. VILARDO, declare as follows:

1. **We are the applicants of the above-identified patent application and inventors of the subject matter described and claimed therein.**

2. **Prior to September 12, 2001 we completed (conceived and reduced to practice) the invention described in the above-identified application.**

This is evidenced as follows:

A. The blend Request/Material Definition sheet indicates that Material Name S010-0120-99-486 was entered into the computer system of The Lubrizol Corporation on a certain "Entry Date," and reports a certain "Need By Date" and a certain "Blend Date". There is also listed an "Invent Date" which is the same as the Entry Date. Each of these dates is before

September 12, 2001. The "Requestor" is listed as "VACA," which is the corporate identifying initial of Virginia A. Carrick, one of the present inventors.

This is evidence that the composition referred to as S010-120-99-486 had been conceived before the critical date.

B. Computer printout (undated) listing the chemical identity of Blend S010-0120-99-486, indicating that it contains mineral oils in a 95:5 weight ratio and indicated quantities of a variety of conventional lubricant additive components, including 7.2 percent by weight of a succinimide dispersant (containing 50% diluent oil; actual concentration 3.5%) and 0.6 percent by weight of a sulfurized cyclic olefin ester. Analyses of this Blend are also reported, showing that it contains 0.0502% phosphorus, 0.2045% sulfur, and 0.989% Sulfated Ash (D874).

Although the computer printout does not contain a date, the composition described is the authentic and exact description of the Blend S010-0120-99-486 that was requested and prepared in Document A, above. It is the regular business practice of The Lubrizol Corporation that each blend which is prepared receives its own unique blend number which never changes.

We note that this Blend S010-0120-99-486 appears to be the identical blend that was quoted as Example 2 in the cited reference WO 03/022963 and in its US equivalent, US 6,583,092.

C. Computer printout of test results on blend ID# S010-0120-99-486, reporting the detailed results of a Cummins M11 diesel engine test, having an end of test ("EOT") date prior to September 12, 2001.

D. Computer printout of tests on sample number S020-0120-99-486, reporting a portion of the results of the Cummins M11 test and the End-of-Test dates for the MB OM 441LA Europe II test (an additional test for piston cleanliness using a Euro II diesel engine), the Peugeot XUD11 PXB218 test (another piston cleanliness test), and the Mack T-10 with EGR test (another diesel engine test). For all these tests, the "end of test" dates are prior to September 12, 2001.

A photocopy of each document referred to above is attached. All dates in the documents are prior to September 12, 2001, or, if the document itself has a later date (such as the date of the computer printout), the dates contained within the document itself are prior to

September 12, 2001. The specific dates, however, have been redacted. We have also redacted all confidential internal material codes and replaced them with more generic descriptors, but we have left intact the generic material descriptions where provided. While the printouts of computer records have been formatted to print legibly on the attached sheets, the content presented accurately represents the original records maintained within the computer.

Thus we had completed the conception and reduction to practice of the invention prior to September 12, 2001.

All the acts referred to above took place in this country.

We further declare that all statements herein made of our knowledge are true and all statements herein made on information and belief are believed to be true. We understand that willful false statements and the like are punishable by fine or imprisonment or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon.

DIANE M. ARTMAN,
10-15-09 (date)

WILLIAM D. ABRAHAM,
10/1/09 (date)

VIRGINIA A. CARRICK,
9/29/09 (date)

JONATHAN S. VILARDO,
9/29/09 (date)